IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 15863 of 2004(L)

PETITIONER:

SMT.RETNAMMA, AGED 57 YEARS,
W/O. SOMAN, KULANGARAYIL HOUSE,
PALAMKADAVU, KULASEKHARAMANGALAM VILLAGE,
VAIKOM, KOTTAYAM DISTRICT.

BY ADV. SRI.P.M.NATESAN
SRI.P.K.MURALEEDHARAN

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
KOTTAYAM DISTRICT, CIVIL STATION, KOTTAYAM.

2. THE DEPUTY TAHASILDAR (R.R.)
VAIKOM TALUK OFFICE, VAIKOM, KOTTAYAM.

3. THE VILLAGE OFFICER, KULASEKHARAMANGALAM
VILLAGE, KULASEKHARAMANGALAM, VAIKOM TALUK,
KOTTAYAM DISTRICT.

4. SRI. MURALEEDHARAN, S/O. VASUDEVAN
KUNJAN, KATTUKARAYIL HOUSE,
ULLALA, THALAYAZHAM VILLAGE, VAIKOM TALUK.

5. THE ASSISTANT EXCISE, COMMISSIONER,
KOTTAYAM DISTRICT, CIVIL STATION,
KOTTAYAM.

R1 TO R3 & R5 BY GOVERNMENT PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF SALE DEED NO. 183 DATED 21.1.1999

EXT.P2 TRUE COPY OF DEMAND/ATTACHMENT DATED 29.3.2004

EXT.P3 TRUE COPY OF OBJECTION DATED 13.4.2004

EXT.P4 TRUE COPY OF ORDER DATED 26.4.2004

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 15863 OF 2004

Dated this the 16th day of November, 2007

JUDGMENT

Since petitioner claimed that liability is that of the fourth respondent, this Court directed recovery against him by interim order dated 27.5.2004. Inspite of such direction no action appears to have been taken or report filed in this Court. Government Pleader produced copy of judgment in WPC 14087 of 2004 wherein also petitioner is one of the petitioners. The contention raised by the petitioner in this W.P. is also similar to the one raised in the other W.P. Since claim of the petitioner is that property being proceeded against is self-acquired property of the petitioner and not that of the defaulter, second respondent is directed to examine the title deed of the petitioner and if the property does not belong to the defaulter, and is not transferred by the defaulter to the petitioner, he will exclude the said property from recovery proceedings. W.P. is disposed of directing the petitioner to produce title deed before the second respondent to establish title over the property. Second respondent is directed to decide the claim of the

petitioner under Section46 of the RR Act and thereafter proceed with recovery only if the petitioner's claim is found to be incorrect.

(C.N. RAMACHANDRAN NAIR)
Judge